



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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Memorandum

**To:** The Honorable Steven M. Costantino  
Chairman, House Finance Committee

The Honorable Daniel DaPonte  
Chairman, Senate Finance Committee

**From:** Rosemary Booth Gallogly *RB Gallogly*  
Executive Director/State Budget Officer

**Date:** April 27, 2009

**Subject:** Revised Article 45 of the FY 2009 Supplemental Appropriations Act (09-H-5019)  
– Relating to Municipal Pension Reform

The Governor requests changes to Article 45 relating to the oversight responsibility for municipal pension plans which are not part of the Municipal Employees Retirement System. As originally proposed, the Employees Retirement Board would have become responsible for a significant amount of oversight for pension plans that are outside their fiduciary responsibility. Under the revised legislation, the municipality would be responsible for securing actuarial audits, which would be subject to review by the State's Auditor General. This would provide the State Auditor General with more information than is available now relating to local pension funding.

If you have any questions regarding this article, feel free to call me at 222-6300.

RBG: sm09-151

cc: Representative Robert A. Watson  
Michael O'Keefe  
Peter Marino  
Brian Stern  
Gregory Stack  
Mike Cronan  
Tim Costa  
Ernie Almonte  
Frank Karpinski

TDD#: 277-1227

## REVISED ARTICLE 45

### RELATING TO MUNICIPAL RETIREMENT

SECTION 1. Section 45-19-19 of the General Laws in Chapter 45-19 entitled "Relief of Injured and Deceased Fire Fighters and Police Officers" is hereby amended to read as follows:

**§ 45-19-19. City and town ordinances providing for retirement of sick or injured police officers or fire fighters.** -- The city or town councils of the various cities and towns may provide, by ordinance or through collective bargaining, for the retirement of the personnel of their police and fire departments who have been on leave of absence from their employment due to sickness contracted or injuries sustained in the performance of their duties; provided, that no ordinance is contrary to any pension cost of living increase or escalator clause in a collective bargaining agreement, and provided, further, that no ordinance provides for a disability retirement allowance of less than ~~sixty-six and two thirds percent (66 2/3%)~~ fifty percent (50%) of a retiree's annual salary at the time of retirement nor more than one hundred percent (100%) of a retiree's annual salary.

SECTION 2. Sections 45-21-16, 45-21-21, 45-21-22, 45-21-41 and 45-21-41.1 of the General Laws in Chapter 45-21 entitled "Retirement of Municipal Employees" are hereby amended to read as follows:

**§ 45-21-16. Retirement on service allowance.** -- Retirement of a member on a service retirement allowance shall be made by the retirement board as follows:

(1) Any member may retire upon the member's written application to the retirement board as of the first day of the calendar month in which the application was filed, provided the member was separated from service prior to the application, and provided, further, that if separation from service occurs during the month in which application is filed, the effective date is the first day following the separation from service, provided that the member at the time so specified for the member's retirement has attained the applicable minimum retirement age and

has completed at least ten (10) years of total service or who, regardless of age, completed thirty (30) years of total service, and notwithstanding that during the period of notification the member has separated from service. The minimum ages for service retirement (except for employees completing thirty (30) years of service) is fifty-eight (58) years for those employees who have completed at least ten (10) years of contributory service before July 1, 2009. For those employees who have not completed at least ten (10) years of contributory service before July 1, 2009, the minimum requirements shall be attainment of age fifty-nine (59) with twenty-nine (29) or more years of contributing service and attainment of age sixty-five (65) for those members with at least ten (10) but less than twenty-nine (29) years of contributing service. Provided further, that any member who has not completed at least ten (10) years of contributory service before July 1, 2009 may retire upon attaining the age of fifty-five (55) and having completed twenty (20) years of contributing service with an actuarial reduction in benefits for each month that the age of the member is less than sixty-five (65) years.

(2) Except as specifically provided in §§ 45-21-19 through 45-21-22, no member is eligible for pension benefits under this chapter unless the member has been a contributing member of the employees' retirement system for at least ten (10) years.

(i) Provided, however, a person who has ten (10) years service credit on or before June 16, 1991 is vested.

(ii) Furthermore, any past service credits purchased in accordance with § 45-21-62 are counted towards vesting.

(iii) Any person who becomes a member of the employees' retirement system pursuant to § 45-21-4 shall be considered a contributing member for the purpose of this chapter.

(iv) Notwithstanding any other provision of law, no more than five (5) years of service credit may be purchased by a member of the System. The five (5)-year limit does not apply to any purchases made prior to the effective date of this provision. A member who has purchased

more than five (5) years of service credit maximum, before January 1, 1995, shall be permitted to apply the purchases towards the member's service retirement. However, no further purchase will be permitted. Repayment, in accordance with applicable law and regulation, of any contribution previously withdrawn from the System is not deemed a purchase of service credit.

(3) No member of the municipal employees' retirement system is permitted to purchase service credits for casual or seasonal employment, for employment as a page in the general assembly, or for employment at any state college or university while the employee is a student or graduate assistant of the college or university.

(4) A member does not receive service credit in this retirement system for any year or portion of a year, which counts as service credit in any other retirement system in which the member is vested or from which the member is receiving a pension and/or any annual payment for life. This subsection does not apply to any payments received pursuant to the Federal Social Security Act or to payments from a military pension earned prior to participation in state or municipal employment, or to military service credits earned prior to participation in state or municipal employment.

(5) A member who seeks to purchase or receive service credit in this retirement system has the affirmative duty to disclose to the retirement board whether or not he or she is a vested member in any other retirement system and/or is receiving a pension retirement allowance or any annual payment for life. The retirement board has the right to investigate whether or not the member has utilized the same time of service for credit in any other retirement system. The member has an affirmative duty to cooperate with the retirement board including, by way of illustration and not by way of limitation, the duty to furnish or have furnished to the retirement board any relevant information which is protected by any privacy act.

(6) A member who fails to cooperate with the retirement board shall not have the time of service counted toward total service credit until a time that the member cooperates with the

retirement board and until a time that the retirement board determines the validity of the service credit.

(7) A member who knowingly makes a false statement to the retirement board regarding service time or credit is not entitled to a retirement allowance and is entitled only to the return of his or her contributions without interest.

**§ 45-21-21. Retirement for accidental disability.** -- (a) Any member in active service, regardless of length of service, is entitled to an accidental disability retirement allowance. Application for the allowance shall be made by the member or on the member's behalf, stating that the member is physically or mentally incapacitated for further service as the result of an injury sustained while in the performance of duty and certifying the time, place, and conditions of the duty performed by the member which resulted in the alleged disability, and that the alleged disability was not the result of the willful negligence or misconduct on the part of the member, and was not the result of age or length of service, and that the member has not attained the age of sixty-five (65). The application may also state that the member is permanently and totally disabled from any employment. The application shall be made within five (5) years of the alleged accident from which the injury has resulted in the member's present disability and shall be accompanied by an accident report and a physician's report certifying the disability. If a medical examination made by three (3) physicians engaged by the retirement board, and other investigations as the board may make, confirm the statements made by the member, the board may grant the member an accidental disability retirement allowance.

(b) The retirement board shall establish uniform eligibility requirements, standards and criteria for accidental disability which apply to all members who make application for accidental disability benefits.

**§ 45-21-22. Accidental disability allowance.** -- Upon retirement for accidental disability, a member receives a retirement allowance equal to sixty-six and two-thirds percent

(66 2/3%) of the rate of the member's compensation at the date of the member's retirement subject to the provisions of § 45-21-31. Upon retirement for accidental disability incurred on or after July 1, 2009, if the member has been found to be permanently and totally disabled from service but has not been found by the board to be permanently and totally disabled from any employment as a result of his/her accidental disability, a member receives a retirement allowance equal to fifty percent (50%) of the rate of the member's compensation at the date of the member's retirement subject to the provisions of § 45-21-31. The retiree shall, as a condition of continued receipt of a disability retirement allowance, on or before a date fixed by the retirement board, annually provide the board with such affidavits and accurate evidence of earnings, employment and gainful activity as the board may require, including, but not limited to, joint and/or individual tax returns, submitted under penalties of perjury. The employee shall be credited with service for his/her period of disability and, upon reaching the earlier of age fifty-nine (59) with twenty-nine (29) years of service or age sixty-five (65) with ten (10) years of service, his/her retirement shall convert to a retirement on service allowance set forth in §§ 45-21-16 and 45-21-17, except that for uniformed firefighters and sworn police officers who are subject to chapter 45-21.2, upon the member reaching age fifty-five (55) with twenty-five (25) years of service his/her retirement shall convert to a retirement on service allowance set forth in §§ 45-21.2-5 and subsection 45-21.2-6(a).

(b) Upon retirement for accidental disability that has been found by the board to be permanently and totally disabling from any employment, a member receives a retirement allowance equal to sixty-six and two-thirds percent (66 2/3%) of the rate of the member's compensation at the date of the member's retirement subject to the provisions of § 45-21-31. The retirement board shall apply the terms of subsection 28-33-17(b) in determining total disability.

**§ 45-21-41. Members' contributions -- Payroll deductions -- Certification to board.**

-- (a) Each member shall contribute an amount equal to ~~six percent (6%)~~ seven percent (7%) of salary or compensation earned and accruing to the member; provided, that contributions by any member cease when the member has completed the maximum amount of service credit attainable. Special compensation for additional fees shall not be considered as compensation for contribution purposes.

(b) Each municipality shall deduct the previously stated rate from the compensation of each member on each and every payroll of the municipality, and the deduction made during the entire time a member is in service subject to termination as stated in the foregoing paragraph.

(c) The deductions provided for in this section shall be made notwithstanding that the minimum compensation provided for by law for any member is reduced by the compensation. Every member is deemed to consent and agree to the deductions made and provided for in this section, and shall receipt for his or her full salary or compensation; and payment of salary or compensation less those deductions are a full and complete discharge and acquittance of all claims and demands for the services rendered by the person during the period covered by the payment except as to the benefits provided under this chapter. Each participating municipality shall certify to the retirement board the amounts deducted from the compensation of members. Each of the amounts, when deducted, shall be credited to an individual account of the member from whose compensation the deduction was made.

**§ 45-21-41.1. Municipality payment of member contributions.** -- (a) Each municipality, pursuant to the provisions of 26 U.S.C. § 414(h)(2) of the United States Internal Revenue Code, may, pursuant to appropriate legal action by the municipality, pick up and pay the contributions which would be payable by the employees as members under § 45-21-41. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code; however, each municipality shall

continue to withhold federal and state income taxes based upon these contributions until the internal revenue service rules that pursuant to 26 U.S.C. § 414(h)(2) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until the time they are distributed. Employee contributions which are picked up pursuant to this section shall be treated and identified as member contributions for all purposes of the retirement system except as specifically provided to the contrary in this section.

(b) Member contributions picked up by a municipality shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from a member's compensation equal to the amount of the employee's contributions picked up by the employee's municipal employer. This deduction, however, shall not reduce the employee's compensation for purposes of computing benefits under the retirement system pursuant to this chapter. Picked up contributions shall be submitted to the retirement system in accordance with the provisions of § 45-21-41.

(c) Nothing in this provision shall authorize change or reduction of the minimum employee contributions required by chapter 45-21.4.

SECTION 3. Sections 45-21.2-5, 45-21.2-6, 45-21.2-6.1, 45-21.2-6.2, 45-21.2-6.3, 45-21.2-9, 45-21.2-14, 45-21.2-22 and 45-21.2-22.1 of the General Laws in Chapter 45-21.2 entitled "Optional Retirement for Members of Police Force and Fire Fighters" are hereby amended to read as follows:

**§ 45-21.2-5. Retirement on service allowance.** – Retirement of a member on a service retirement allowance shall be made by the retirement board as follows:

(1) Any member who has attained or attains age seventy (70) shall be retired as stated in § 45-21-16 subject to the discretions contained in that section; provided, that any member who is a member of the Woonsocket fire department who has attained or attains an age of sixty-



five (65) years shall be retired. Retirement occurs on the first day of the next succeeding calendar month in which the member has attained the age of sixty-five (65) years.

(2) Any member may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member has completed at least ten (10) years of contributory service before July 1, 2009 and at the specified time for retirement has attained an age of fifty-five (55) years, or has completed at least ten (10) years of contributory service on or after July 1, 2009 and has attained the age of sixty-five (65) years ~~and has completed at least ten (10) years of total service~~, and notwithstanding that the member may have separated from service.

(3) Any member may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has completed at least twenty-five (25) years of total service, and, for employees who have not completed at least ten (10) years of contributory service before July 1, 2009, has attained the age of fifty-five (55) years, and notwithstanding that the member may have separated from service.

(4) Any member may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has attained an age of fifty (50) years and has completed at least twenty (20) years of total service, notwithstanding that the member may have separated from service; provided, that for employees who have completed at least ten (10) years of contributory service before July 1, 2009 the service retirement allowance, as determined according to the formula provided in § 45-21.2-6, is reduced one-half of one percent (1/2%) for each month that the age of the member is less than fifty-five (55) years and for employees who have not completed at least ten (10) years of contributory service before July 1, 2009, the service retirement allowance as determined according to the formula provided in § 45-21.2-6 is

reduced by an actuarial reduction in benefits for each month that the age of the member is less than age fifty-five (55).

(5) Any member of the South Kingstown police department may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation pursuant to § 45-21.2-6.1. This subsection shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

(6) Any member of the Johnston police department may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation pursuant to § 45-21.2-6.2. This subsection shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

(7) Any member of the Cranston fire department hired after July 1, 1995, or any member of the Cranston fire department with five (5) years or less of service effective July 1, 1995, may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation for at least twenty (20) years service; final compensation for Cranston fire department members is based on the compensation components of weekly salary, longevity and

holidays with longevity of the members highest year of earnings and members shall receive a three percent (3%) escalation of their pension payment compounded each year on January 1st following the year of retirement and continuing on an annual basis on that date; further, any illness or injury not covered in title 45 of the general laws relating to the presumption of disability is governed by the collective bargaining agreement between the City of Cranston and members of the Cranston fire department. This subsection shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

(8) Any member of the Cranston police department hired after July 1, 1995, or any member of the Cranston police department with five (5) years or less of service effective July 1, 1995, may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation for at least twenty (20) years service; final compensation for Cranston police department members is based on the compensation components of weekly salary, longevity and holidays with longevity of the members highest year of earnings and members shall receive a three percent (3%) escalation of their pension payment compounded each year on January 1st following the year of retirement and continuing on an annual basis on that date; further, any illness or injury not covered in title 45 of the general laws relating to the presumption of disability is governed by the collective bargaining agreement between the City of Cranston and members of the Cranston police department. This subsection shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

(9) Any member of the Hopkinton police department may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation for at least twenty (20) years service; final compensation for Hopkinton police department members is based on the compensation components of weekly salary, longevity and holidays with longevity of the members highest year of earnings and members shall receive a three percent (3%) escalation of their pension payment compounded each year on January 1st following the year of retirement and continuing on an annual basis on that date. This subsection shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

(10) Any member of the Richmond police department may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation for at least twenty-two (22) years' service pursuant to § 45-21.2-6.3. This subsection shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

**§ 45-21.2-6. Service retirement allowance.** -- (a) Upon retirement from service pursuant to subdivision (1), (2), or (3) of § 45-21.2-5, a member receives a retirement allowance which is a life annuity terminable at the death of the annuitant and shall be an amount equal to two percent (2%) of final compensation multiplied by the years of total service, but not to exceed seventy-five percent (75%) of final compensation.

~~(b) Upon retirement from service pursuant to subdivision (4) of § 45-21.2-5, a member receives a retirement allowance which is a life annuity terminable at the death of the annuitant computed in accordance with subsection (a) of this section, reduced by one half of one percent (1/2%) for each month that the member was under age fifty five (55) at his or her retirement.~~

~~(e)~~(b) Upon retirement, the member may elect to receive the actuarial equivalent of his or her retirement allowance in a lesser retirement allowance as determined by actuarial calculation, which is payable throughout life with the provision that:

(1) Option 1. - A reduced retirement allowance payable during the member's life with the provisions that after his or her death it shall continue during the life of and be paid to the person that he or she nominated by written designation duly acknowledged and filed with the retirement board at the time of retirement; or

(2) Option 2. - A reduced retirement allowance payable during the member's life with the provision that after his or her death an allowance equal to one-half ( 1/2) of his or her reduced allowance shall continue during the life of and be paid to the person that he or she nominated by written designation duly acknowledged and filed with the board at the time of retirement.

**§ 45-21.2-6.1. South Kingstown police department -- Retirement allowance. --**

Upon retirement from service pursuant to subdivision (1), (2), or (5) of § 45-21.2-5, a member of the South Kingstown police department receives a retirement allowance which is a life annuity terminable at the death of the annuitant, and is an amount equal to the sum of two and one-half percent (2.5%) of final compensation multiplied by the years of service accrued after July 1, 1993 and two percent (2%) of final compensation multiplied by the years of service accrued prior to July 1, 1993. The annual retirement allowance in no event shall exceed seventy-five percent (75%) of final compensation. This section shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1,

2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

**§ 45-21.2-6.2. Johnston police department retirement allowance.** -- Upon retirement from service pursuant to subdivision (1), (2), or (6) of § 45-21.2-5, a member of the Johnston police department receives a retirement allowance which is a life annuity terminable at the death of the annuitant, and is an amount equal to the sum of two percent (2%) of final compensation multiplied by the first twenty-five (25) years of service and four percent (4%) of final compensation multiplied by the years of service in excess of twenty-five (25) years. The annual retirement allowance in no event shall exceed seventy-five percent (75%) of final compensation. This section shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

**§ 45-21.2-6.3. Richmond police department -- Retirement allowance.** -- Upon retirement from service pursuant to chapter 45-21.2-5, a member of the Richmond police department shall receive a retirement allowance which shall be terminable at the death of the annuitant, and shall be an amount equal to the sum of two and two thousand seven hundred twenty-seven ten thousandths of a percent (2.2727%) of final compensation (average of final three years' salary) multiplied by the years of service. The annual retirement allowance in no event shall exceed seventy-five percent (75%) of final compensation. This section shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

**§ 45-21.2-9. Retirement for accidental disability.** -- (a) Any member in active service, regardless of length of service, is entitled to an accidental disability retirement

allowance. Application for the allowance is made by the member or on the member's behalf, stating that the member is physically or mentally incapacitated for further service as the result of an injury sustained while in the performance of duty and certifying to the time, place, and conditions of the duty performed by the member which resulted in the alleged disability and that the alleged disability was not the result of the willful negligence or misconduct on the part of the member, and was not the result of age or length of service, and that the member has not attained the age of sixty-five (65). The application shall be made within eighteen (18) months of the alleged accident from which the injury has resulted in the member's present disability and shall be accompanied by an accident report and a physician's report certifying to the disability. If the member was able to return to his or her employment and subsequently reinjures or aggravates the same injury, the member shall make another application within eighteen (18) months of the reinjury or aggravation which shall be accompanied by a physician's report certifying to the reinjury or aggravation causing the disability. If a medical examination made by three (3) physicians engaged by the retirement board, and other investigations as the board may make, confirms the statements made by the member, the board may grant the member an accidental disability retirement allowance.

(b) For purposes of subsection (a), "reinjury" shall mean a recurrence of the original work-related injury from a specific ascertainable event. The specific event must be the proximate cause of the member's present condition of disability.

(c) For the purposes of subsection (a), "aggravation" shall mean an intervening work-related trauma that independently contributes to a member's original injury that amounts to more than the natural progression of the preexisting disease or condition and is not the result of age or length of service. The intervening independent trauma causing the aggravation must be an identifiable event or series of work-related events that are the proximate cause of the member's present condition of disability.

(d) Any fire fighter, including one employed by the state, or a municipal firefighter employed by a municipality that participates in the optional retirement for police officers and fire fighters as provided in this chapter, who is unable to perform his or her duties in the fire department by reason of a disabling occupational cancer which develops or manifests itself during a period while the fire fighter is in the service of the department, and any retired member of the fire force of any city or town who develops occupational cancer, is entitled to receive an occupational cancer disability and he or she is entitled to all of the benefits provided for in this chapter, chapters 19, 19.1, and 21 of this title and chapter 10 of title 36 if the fire fighter is employed by the state.

(e) "Occupational cancer", as used in this section, means a cancer arising out of employment as a fire fighter, due to injury due to exposures to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty in the fire department.

(f) Pursuant to §§ 45-21.2-10, 45-21-22 and subsection 45-21-24(a), the retiree shall, as a condition of continued receipt of a disability retirement allowance, on or before a date fixed by the retirement board, annually provide the board with such affidavits and accurate evidence of earnings, employment and gainful activity as the board may require, including, but not limited to, joint and/or individual tax returns, under penalties of perjury.

**§ 45-21.2-14. Contributions.** -- (a) Each member shall contribute an amount equal to ~~seven percent (7%)~~ eight percent (8%) of the salary or compensation earned or accruing to the member. Special compensation or additional fees shall not be considered as compensation for contribution purposes.

(b) Deductions are made in accordance with § 45-21-14 and credited in accordance with § 45-21-43.



(c) Each municipality shall make contributions to the system to provide the remainder of the obligation for retirement allowances, annuities, and other benefits provided in this section, after applying the accumulated contribution of members, interest income on investments, and other accrued income. The contribution shall be compiled in accordance with §§ 45-21-42 — through 45-21-44, except that contributions for the first five (5) years of the system shall likewise be determined by the board.

(d) Provided, that members of the South Kingstown police department, beginning July 1, 1985, contribute an amount equal to eight percent (8%) of salary or compensation or additional fees are not considered as compensation for retirement purposes.

(e) Provided, further, that members of the City of Cranston fire department hired after July 1, 1995, beginning July 1, 1995, contribute an amount equal to ten percent (10%) of their weekly salary; and those members of the City of Cranston fire department with five (5) years or less of service effective July 1, 1995, have the option to either remain in the City of Cranston pension plan to which they belonged prior to the adoption of local ordinance by the Cranston city council as stated in § 45-21.2-22 or contribute to the State of Rhode Island optional twenty (20) year retirement on service allowance an amount equal to ten percent (10%) of their weekly salary commencing July 1, 1995. The City of Cranston may request and the retirement board may authorize additional members of the City of Cranston fire department hired after July 1, 1987, the option to either remain in the City of Cranston pension plan to which they belonged prior to the adoption of local ordinance by the Cranston city council as stated in § 45-21.2-22 or contribute to the State of Rhode Island optional twenty (20) year retirement on service allowance an amount equal to ten percent (10%) of their weekly salary beginning on a date specified by the retirement board. This section shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the

end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

(f) Further, provided, that members of the City of Cranston police department hired after July 1, 1995, beginning July 1, 1995, contribute an amount equal to ten percent (10%) of their weekly salary; and those members of the City of Cranston police department with five (5) years or less of service effective July 1, 1995, have the option to either remain in the City of Cranston pension plan to which they belonged prior to the adoption of local ordinance by the Cranston city council as stated in § 45-21.2-22 or contribute to the State of Rhode Island optional twenty (20) year retirement on service allowance an amount equal to ten percent (10%) of their weekly salary commencing July 1, 1995. The City of Cranston may request and the retirement board may authorize additional members of the City of Cranston police department hired after July 1, 1987, the option to either remain in the City of Cranston pension plan to which they belonged prior to the adoption of local ordinance by the Cranston city council as stated in § 45-21.2-22 or contribute to the State of Rhode Island optional twenty (20) year retirement on service allowance an amount equal to ten percent (10%) of their weekly salary beginning on a date specified by the retirement board. This section shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

**§ 45-21.2-22. Optional twenty year retirement on service allowance.** -- The local legislative bodies of the cities and towns may, by ordinance adopted, permit the retirement of a member on a service retirement allowance as follows:

(1) Any member may retire pursuant to this section upon his or her written application to the board stating at what time he or she desires to retire; provided, that the member, at the

specified time for his or her retirement, has completed at least twenty (20) years of total service, and, notwithstanding that the member may have separated from service;

(2) Upon retirement from service pursuant to subdivision (a), a member receives a retirement allowance which is a life annuity terminable at the death of the annuitant, and is equal to two and one-half percent (2 1/2%) of final compensation multiplied by the years of total service, but not to exceed seventy-five percent (75%) of final compensation;

(3) Upon the adoption of a service retirement allowance, pursuant to this subdivision, each member contributes an amount equal to one percent (1%) more than that contribution required under § 45-21.2-14;

(4) This section is exempt from the provisions of chapter 13 of this title.

(5) This section shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

**§ 45-21.2-22.1. Burrillville police -- Optional twenty-year retirement on service allowance.** -- Notwithstanding § 45-21.2-22, the town council of the town of Burrillville, may by ordinance adopted, permit the retirement of a member on a service retirement allowance as follows:

(1) Any member may retire pursuant to this section upon his or her written application to the board stating at what time he or she desires to retire; provided, that the member, at the specified time of his or her retirement, has completed at least twenty (20) years of total service;

(2) Upon retirement from service, pursuant to subdivision (1), a member receives a retirement allowance that is a life annuity terminable at the death of the annuitant, and is equal to three percent (3%) of final compensation multiplied by the years of total service, but not to exceed sixty percent (60%) of final compensation;

(3) Upon retirement from service where member has in excess of twenty (20) years of service, a member receives a retirement allowance that is a life annuity terminable at the death of the annuitant, and is an amount equal to the sum of three percent (3%) of final compensation multiplied by the first twenty (20) years of service and one and one-half percent (1.5%) of final compensation multiplied by the years of service in excess of twenty (20) years. The annual retirement allowance in no event shall exceed seventy-five percent (75%) of final compensation;

(4) Upon the adoption of a service retirement allowance, pursuant to this section, each member shall contribute an amount equal to ten and two-tenths percent (10.2%) of the salary or compensation earned or accrued to the member;

(5) Notwithstanding anything to the contrary hereinabove, any member who retires with less than twenty (20) years of service shall be subject to § 45-21.2-6 for purposes of determining any service retirement allowance;

(6) This section is exempt from the provisions of chapter 13 of this title;

(7) Except as specifically set forth hereinabove, all other provisions of chapter 21.2 of this title shall be applicable to Burrillville police officers who make application to retire.

(8) This section shall apply only to employees who have completed at least ten (10) years of contributory service before the later of July 1, 2009 or the end of the day on the expiration date set forth in any lawful collective bargaining agreement that was executed and in effect prior to July 1, 2009.

SECTION 4. Title 45 of the General Laws entitled "Towns and Cities" is hereby amended by adding thereto the following chapter:

#### CHAPTER 21.4

#### MUNICIPAL RETIREMENT PROGRAMS

§ 45-21.4-1. Purpose. – It is the intent of this chapter to ensure that retirement benefits

accorded to municipal employees by collective bargaining agreement are affordable to taxpayers, and thus to ensure that municipal employees will enjoy these benefits in retirement without interruption.

§ 45-21.4-2. Definitions. – Words used in this chapter shall be defined using the definitions contained in section 45-21-2.

§ 45-21.4-3. Limits on retirement benefits. – Notwithstanding any general law or special law of the state of Rhode Island, no collective bargaining agreement entered into and no interest arbitration award issued, after the effective date of this chapter by a municipality, shall require or permit employee retirement benefits in addition to or in excess of the following, or any of the following individually, or employee contribution rates that are less than the following, for employees retiring after the effective date of the chapter:

(a) For employees who have not already reached their vesting date in a pension plan providing more generous benefits, and except as further limited by this chapter, benefits and allowances shall not exceed those benefits and allowances provided by chapter 45-21, or, for sworn police officers and uniformed firefighters only, those benefits and allowances provided by chapter 45-21.2 (excluding provisions applicable to individual municipalities) of the general laws, each chapter as it is in effect as of the effective date of this section. Contributions for employees shall not be less than those required in section 45-21-41, or for sworn police officers and uniformed firefighters only, as required in section 45-21.2-14, irrespective of vested status.

(b) Post-retirement health, dental, life or other insurance benefits (“Insurance Benefits”) under group plans covering the municipality’s employees or supported in any way by funds from the local taxing authority, shall not be wholly or partially provided by a municipality to a former employee or retiree before the individual’s fifty-fifth (55th) birthday and shall discontinue upon the individual reaching Medicare eligibility; provided, however, that a former employee or retiree may be permitted to continue under a municipality’s group plan

for any insurance benefits if he/she pays one hundred percent (100%) of the premium or working rate, or for self-insured municipalities' plans one hundred percent (100%) of the working rate, of the applicable insurance plan.

(c) For those employees who have not vested before July 1, 2009 in a pension plan providing more generous cost of living adjustment ("COLA"), or a pension escalator, shall not exceed three percent (3%) non-compounded annually, commencing on the fifth anniversary of the date on which the retiree commences receiving a retirement allowance.

(d) No retiree who has insurance benefits available to him/her, whether through employment, social security, a spouse's employment or social security or from any other source, shall be eligible for payment, in whole or in part, by the municipality or other entity for insurance of the same kind. For example, a retiree whose spouse is employed by an employer that has a group health insurance plan shall not be eligible for payment for health insurance coverage by a municipality, unless that group plan does not permit a spouse to be covered.

(e) Each retiree who is afforded any insurance benefits shall contribute at least twenty percent (20%) of the premium or working rate, or, for retirees of municipalities that self-insure, twenty percent (20%) of the working rate, for such benefits, as a condition precedent to receipt of benefits. Insurance benefits provided to retirees shall be no greater than the same plan or plans provided to active employees.

(f) Post-retirement insurance benefits shall be limited to individual plans or individual-plus-spouse plans. Only a spouse who is covered on the date of retirement shall be permitted coverage.

**§ 45-21.4-4. Implementing Regulations.** – As part of a municipality's annual audit, a report detailing compliance with the provisions of Chapter 45-21.4 shall be submitted to the auditor general no later than forty-five (45) days after the completion of the annual audit. The auditor general shall validate the report for compliance. Any issues of non-compliance

shall invoke the provisions of section 45-21.4-9. For municipalities that have not accepted the provisions of chapter 21 of title 45 and which do not participate in the municipal employees' retirement system, the auditor general shall have the authority to secure the services of an actuary to perform an actuarial audit of the municipality's pension plan. Such actuarial audit shall be performed no less than every five (5) years and shall be paid for by the municipality. Any such recommendations provided by the audit, which is deemed by the auditor general to be required for proper actuarial funding, shall be implemented by the municipality and shall be enforced by section 45-21.4-9.

§ 45-21.4-5. Enforcement. – Upon receipt of information from the auditor general, the general treasurer or any other source, that a municipality, by contract, rule, regulation, practice, resolution, ordinance or otherwise has failed to comply with the terms of this chapter, the attorney general shall, or any person or public interest group may, file suit in the superior court and, if he/she/it prevails in the litigation, shall be entitled to injunctive relief, reformation of any conflicting contracts, attorneys' fees and costs, and such other and further relief as the court may deem necessary in order to give full force and effect to the terms of this chapter, and to remedy any damage done by reason of the violation.

§ 45-21.4-6. Actuarial cost required. – No person or committee shall recommend passage of any bill or resolution having an effect of increasing employer contributions, decreasing employee contributions, or increasing benefits or retirement allowances or limits thereon in chapters 45-21, 45-21.2 or 45-21.4, unless the bill or resolution shall be accompanied by a statement which shall set forth the costs and/or value of each change as determined by the actuaries regularly employed by the municipal employees retirement system. The cost of such analysis shall be borne by the committee or entity recommending the change.

§ 45-21.4-7. Severability. – Should any term or provision of this chapter be declared by a court of competent jurisdiction to be unenforceable and/or void, the remaining provisions and terms of this chapter shall continue in full force and effect.

SECTION 5. This article shall take effect as of July 1, 2009.